obligation did not rest upon the defendant to produce a stairway safe for travel, but merely that portion of a stairway which, when compelted by the work of someone else, would be a safe means of travel." Smith and Clarke, J. J., (*dissenting*) held that the defendant owed a duty to those who to his knowledge would make use of the stairway. *Brady* v. *Claremont Iron Works* (Supreme Ct. of New York, App. Div., Jan. 1919), 174 N. Y. Supp. 64.

In *Heaven* v. *Pender,* Ct. of Appeal, 11 Q. B. D. 503, an opposite conclusion was reached under facts materially similar to those in the principal case. The defendant, a dock owner, under a contract with a ship owner, supplied a stage to be slung outside the ship for the purpose of painting. The contractee's employee was allowed a recovery against the dock owner for injuries caused by the breaking of a defective rope. The defendant had no actual knowledge that the platform would be used by the plaintiff but the court concluded that he "must have known" if the matter had been considered at all. The court refused to limit the defendant's duty to the parties to the contract. The court said: "If a person contracts with another to use ordinary care or skill toward him or his property the obligation need not be considered in the light of a duty; it is an obligation of contract. It is undoubted, however, that there may be the obligation of such a duty from one person to another although there is no contract between them with regard to such duty * * * the existence of a contract between two persons does not prevent the existence of the suggested duty between them also being raised by law, independently of the contract, by facts in regard to which the contract is made and to which it applies an exactly similar but not a contract duty." In a word, the existence of a contract duty does not preclude the existence of a duty ex delicto contemporaneous with it and covering the same or a broader field. The rule laid down by the court is, indeed, a reasonable one: "Whenever one person is by circumstances placed in such a position with regard to another that everyone of ordinary sense who did think would at once recognize that if he did not use ordinary care and skill in his own conduct with regard to those circumstances he would cause danger or injury to the person or property of the other, a duty arises to use ordinary care and skill to avoid such danger." The same rule is expressed in *Sweeny* v. *Old Colony Ry.,* 10 Allen (Mass.) 368, 377. In the principal case the duty to the plaintiff seems clear. The knowledge of the future use imposed upon the defendant a duty to construct an uncompleted stairway as safe as an uncompleted stairway of that type should be—especially since no greater burden was imposed than that which the contract with the building corporation imposed, namely that due care be exercised in the construction of the stairway. The case would have been easily covered by the principle laid down in *McPherson* v. *Buick Motor Co.,* 217 N. Y. 382, decided in the Court of Appeals in the same jurisdiction. See also *Huset* v. *Case Threshing Machine Co.,* 120 Fed. 865; *Schubert* v. *Clark,* 49 Minn. 331, and the cases discussed in the opinions of the principal case.

NEGOTIABLE INSTRUMENTS—LIABILITY OF DRAWER OF BLANK CHECK.—Plaintiff signed a check made out by his confidential clerk. At the time, it

purported to be made out in figures for 2£, although nothing was written upon it in words. The figure 2 was so placed, however, that a figure 1 could be placed before it and a 0 after it. The clerk thus raised the figures to 120£, filled in words for that amount, cashed the check and absconded. Plaintiff sued for a declaration that the bank on which the check was drawn had no right to debit plaintiff's account by more than the 2£ for which the check was drawn when signed. *Held,* the bank was entitled to debit the full 120£. *London Joint Stock Bank* v. *Macmillan and Arthur,* H. of L., [1918] 1918 Ann. Cas. 777.

The court recognized two issues, namely, whether the plaintiff was guilty of negligence in signing the check as he did, and whether such negligence was a breach of duty between himself and the bank. Both issues were decided in the affirmative. The ultimate decision was based also on the principle that plaintiff was estopped to deny the authority of his agent to fill in as he did what was practically a blank check when signed. In *Commercial Bank* v. *Arden,* 177 Ky. 520 is was held that inasmuch as the Negotiable Instrument statute of Kentucky made void instruments which had been altered without the maker's consent, the maker owed no duty to the bank to use care in drawing instruments so that they could not be altered—an apparent non-sequitur. Most of the American authorities, however, are in harmony with the principal decision and impose upon the drawer of a check a duty to use due care in protecting the drawee. *Otis Elevator Co.* v. *First National Bank,* 163 Cal. 31; *Timbel* v. *Garfield National Bank,* 106 N. Y. S. 497. The principal case, in its recital of the various interpretations of *Young* v. *Grote,* 4 Bing. 253, is an interesting commentary on the mechanics of the law.

NUISANCE—FEAR—TUBERCULOSIS HOSPITAL—RESTRICTIVE COVENANTS.—Lands were leased with covenant by the lessee not to "exercise or carry on, or permit to be used, exercised, or carried on, upon the demised premises any noisy, noisome, or offensive trade or business, or use any part of the premises as a tavern or inn, or at any time during the term do or suffer to be done anything which might be hazardous or noisome or injurious or offensive to the lessor of his property, or to any of his tenants or undertenants." The lessee turned over the demised premises to be used as a hospital for children suffering from surgical tuberculosis. On application by plaintiffs as neighboring owners and entitled to the benefit of such covenant. *Held,* the covenant was not violated and no nuisance committed or threatened. *Frost* v. *The King Edward, etc. Assoc.,* (Ch. Div.), [1918] 2 Ch. 180.

The injunction was asked on the ground that "tuberculosis is an endemic and infectious disease and the hospital is a source of danger to the neighborhood." After hearing testimony of eminent authorities whose conclusions were all to the effect that the hospital was not a source of danger to the neighborhood and that there was no risk of infection from it to those living in its immediate vicinity, the court concluded as above stated. The fears of those in the neighborhood were found to be groundless. In *Stotler* v. *Rochelle,* 83 Kans. 86, an injunction against the establishment of a cancer hospital